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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Terry Wayne Lockridge

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EXAMINER

MENDOZA, JUNIOR O

ART UNIT

PAPER NUMBER

2423

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,749	Applicant(s) LOCKRIDGE ET AL.	
	Examiner JUNIOR O. MENDOZA	Art Unit 2423	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/20/2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 8 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 3 – 14 and 16 – 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoel et al (Patent No 5,905,942) in view of Hendricks et al (Patent No 7,207,055). Hereinafter referenced as Stoel and Hendricks, respectively.

Regarding **claim 1**, Stoel discloses a system for providing data in a multiple dwelling facility (See abstract and figure 1), the system comprising:

a headend unit that received data stream from a program provider via a content delivery medium, the data stream comprising a plurality of programs (Col. 10 lines 49-51 also exhibited on fig 3A; headend 12 receives cable, PPV programming and off-air programming received by means of a satellite dish 86 or antenna 92);

and a multiple dwelling unit network that is adapted to receive at least a portion of the data stream from the headend unit and provide at least a subset of the plurality of programs to individual users in the multiple dwelling facility (Col. 1 lines 66-67 and col. 2 lines 1-6 also exhibited on fig 1; system 10 is installed in a multiple dwelling unit such as an apartment complex, where each subscriber unit 16 receives content from the headend 12);

wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility (Col. 1 lines 66-67 and col. 2 lines 1-6 figure 1).

However, it is noted that Stoel fails to explicitly disclose that a headend unit is adapted to offer programs to users at a first price set by a program provider or at a second price set by the headend unit.

Nevertheless, in a similar field of endeavor Hendricks discloses that a headend unit is adapted to offer programs to users at a first price set by a program provider or at a second price set by the headend unit (Col. 29 line 20-31, col. 7 lines 65-67, col. 8 lines 1-11; price category 506 contains price set at the national distribution site source

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for distributed content, where each local headend 208 is allowed the capability to charge a different amount for said content should that be desired).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel by specifically providing the elements mentioned above, as taught by Hendricks, for the purpose of allowing headend providers to dynamically charge a content fee which fits the cost of living for each geographical region, this way increasing the chances for increased content consumption.

Regarding **claim 3**, Stoel and Hendricks disclose the system set forth in claim 1; moreover, Stoel discloses that the multiple dwelling unit network comprises a switch that distributes the at least a subset of the plurality of programs to users in individual dwelling units within the multiple dwelling facility (Col. 53-67 figure 1; content is supplied from headend 12 to each individual subscriber unit 16 through an interdiction field unit 28, which selectively jams or allows channels to the subscriber unit 16, in other words the interdiction field unit 28 switches on/off the right for a customer to get some channels based on a control data command received from the head end 12).

Regarding **claim 4**, Stoel and Hendricks disclose the system set forth in claim 1; moreover, Stoel discloses that the multiple dwelling unit network comprises a set top box in each of the individual dwelling units within the multiple dwelling facility (Subscriber unit 16 as exhibited on fig 1),

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each of the set top boxes being adapted to block a specific program or permit access to the specific program depending on whether a user has met at least one predetermined condition (Col. 53-67 figure 1; content is supplied from headend 12 to each individual subscriber unit 16 through an interdiction field unit 28, which selectively jams or allows channels to the subscriber unit 16, in other words the interdiction field unit 28 switches on/off the right for a customer to get some channels based on a control data command received from the head end 12. Moreover, each subscriber terminal has a non-volatile stored address which is associated with the subscriber in the subscriber database, col. 4 lines 42-56; where a user needs to enter a PIN in order to have access to content, col. 5 lines 28-58)

Regarding **claim 5**, Stoel and Hendricks disclose the system set forth in claim 1; moreover, Stoel discloses that at least one of the plurality of programs comprises a premium video channel (Col. 2 lines 7-14 fig 1A; headend 12 may provide RF signals including premium tier programming, such as HBO, Cinemax, etc).

Regarding **claim 6**, Stoel and Hendricks disclose the system set forth in claim 1; moreover, Stoel discloses that at least one of the plurality of programs comprises a pay per view video program (Col. 2 lines 7-14 figures 1A and 3; headend 12 may provide RF signals including event pay-per-view programming).

Regarding **claim 7**, Stoel and Hendricks disclose the system set forth in claim 1; moreover, Stoel discloses the headend unit is configured to interface with a billing system that is configured to create a billing record for each of a plurality of users in the multiple dwelling facility (Col. 4 lines 42-56). As a part of signing on with the cable system operator, the subscriber will provide billing information including name, address, and telephone number. That subscriber information is stored in a subscriber database. Subscriber terminal has a non-volatile stored address which is associated with the subscriber in the subscriber database; moreover, after confirmation of the PIN is completed, headend 12 creates a billing record for the purchase, col. 5 lines 59-64).

Regarding **claim 8**, Stoel discloses a method for providing access to data to individual users within a multiple dwelling facility (Abstract), comprising the acts of:
receiving a data stream from a program provider via a content delivery medium, the data stream comprising a plurality of programs (Col. 10 lines 49-51 also exhibited on fig 3A; headend 12 receives cable, PPV programming and off-air programming received by means of a satellite dish 86 or antenna 92);

distributing at least a portion of the data stream to a multiple dwelling unit network (Content is distributed to interdigital field units 28 as exhibited on fig 1);

and providing access to a specific one of the plurality of programs to each of a plurality of individual users within the multiple dwelling facility via the multiple dwelling unit network depending on whether each of the plurality of individual users has met at

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least one predetermined condition (System 10 is installed in a multiple dwelling unit such as an apartment complex, where each subscriber unit 16 receives content from the headend 12, col. 1 lines 66-67 and col. 2 lines 1-6 also exhibited on fig 1. Moreover, each subscriber terminal has a non-volatile stored address which is associated with the subscriber in the subscriber database, col. 4 lines 42-56; where a user needs to enter a PIN in order to have access to content, col. 5 lines 28-58).

However, it is noted that Stoel fails to explicitly disclose that a specific program is provided either at a first price set by a program provider or at a second price set by the headend unit.

Nevertheless, in a similar field of endeavor Hendricks discloses that a specific program is provided either at a first price set by a program provider or at a second price set by the headend unit (Col. 29 line 20-31, col. 7 lines 65-67, col. 8 lines 1-11; price category 506 contains price set at the national distribution site source for distributed content, where each local headend 208 is allowed the capability to charge a different amount for said content should that be desired).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stoel by specifically providing the elements mentioned above, as taught by Hendricks, for the purpose of allowing headend providers to dynamically charge a content fee which fits the cost of living for each geographical region, this way increasing the chances for increased content consumption.

Regarding **claims 9, 10 and 12**, Stoel and Hendricks disclose all the limitations of claims 9, 10 and 12; therefore, claims 9, 10 and 12 are rejected for the same reasons stated in claims 6, 5 and 4, respectively.

Regarding **claim 11**, Stoel and Hendricks disclose the method set forth in claim 8, moreover, Stoel discloses that the at least one predetermined condition comprises selecting at least one of the plurality of programs for display using an on-screen programming guide (Col. 3 lines 46-57 also exhibited on fig 2; the subscriber selects content options by viewing interactive menus on the screen of the television 44 and navigates it by pressing the keys of control remote 46).

Regarding **claims 14, 16, 17, 18, 19 and 20**, Stoel and Hendricks disclose all the limitations of claims 14, 16, 17, 18, 19 and 20; therefore, claims 14, 16, 17, 18, 19 and 20 are rejected for the same reasons stated in claims 1, 3, 4, 5, 6, and 7, respectively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUNIOR O. MENDOZA whose telephone number is (571)270-3573. The examiner can normally be reached on Monday - Friday 9am - 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571)272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Junior O Mendoza
Examiner
Art Unit 2423

/J. O. M./
September 15, 2009

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2423